

EXHIBIT 611

Ralph J. McCornack

May 17, 2011

1 UNITED STATES DISTRICT COURT OF THE
 2 SOUTHERN DISTRICT OF WEST VIRGINIA
 3 CHARLES DIVISION
 4 * * *
 5 IN RE: DIGITEK PRODUCT LIABILITY)
 6 LITIGATION)
 7 THIS DOCUMENT RELATES ONLY TO:)
 8 Kathy McCornack, an individual;)
 9 Daniel E. McCornack, Jr., an)
 10 individual; and Ralph J.)
 11 McCornack, a minor by and through)
 12 his guardian ad litem,)
 13 Plaintiffs,)
 14 vs.) Case No. 2:09-cv-06
 15 ACTAVIS TOTOWA, LLC, et al.,)
 16 Defendants.)
 17 -----)

15 DEPOSITION OF RALPH J. MCCORNACK
 16 San Luis Obispo, California
 17 Tuesday, May 17, 2011
 18 1:59 p.m. - 3:10 p.m.

21 REPORTED BY CINDY D. GRIFFITH
 22 CSR #7281
 23
 24
 25

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May 17, 2011

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individual; and Ralph J.)

9 McCornack, a minor by and through)

his guardian ad litem,)

10 Plaintiffs,)

11 vs.)

Case No. 2:09-cv-06

12 ACTAVIS TOTOWA, LLC, et al.,)

13 Defendants.)

14 -----)

15
 16 Deposition of Ralph J. McCornack, produced,
 17 sworn and examined on the 17th day of May,
 18 2011 between the hours of 1:59 p.m. and
 19 3:10 p.m. at the offices of McDaniel Shorthand
 20 Reporters, in the County of San Luis Obispo,
 21 State of California, before Cindy D. Griffith,
 22 California Certified Shorthand Reporter,
 23 within the State of California.
 24
 25

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I N D E X

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	Ms. Lim	56
	Mr. Ernst	58

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1 RALPH MCCORNACK,
2 having been first duly sworn, was
3 examined and testified as follows:
4

5 EXAMINATION
6

7 BY MS. LOVE:

8 Q Will you please state your name for the record.

9 A Ralph Jay McCornack.

10 Q How old are you?

11 A 17 -- 18. Sorry.

12 Q For the record, appearances, I'm Avril Love
13 from Tucker, Ellis & West. I'm here on behalf of the
14 Actavis defendants.

15 A Okay.

16 MS. LIM: My name is Tiffany Lim from Shock,
17 Hardy & Bacon, and I'm here for the Mylan defendants in
18 this case.

19 BY MS. LOVE:

20 Q Have you ever been deposed before?

21 A Not that I know of.

22 Q All right. Well, did your lawyer explain this
23 process to you at all?

24 A Yes.

25 Q Just to go over it and to make sure everything

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1 goes smoothly today so we get a clear record, I'm going
2 to ask you to speak slowly and clearly. And a lot of
3 the questions that I'm going to ask you may be
4 repetitive and you may be able to anticipate the
5 question.

6 A Uh-huh.

7 Q And I might even be able to anticipate your
8 answer, but so that we get a clear and full record, try
9 to refrain from talking while I'm talking so only one of
10 us is talking at once. That way our court reporter,
11 who's taking everything down that we say, will be able
12 to get everything.

13 Once in a while your attorney may make an
14 objection. That's a normal part of the process. Just
15 allow him to state his objection before you answer, and
16 when he's done, then you can go ahead and give your
17 answer as long as he has not instructed you not to.

18 Okay. So I'll need all of your answers to be
19 verbal. So no head shaking, shoulders, uh-huhs,
20 huh-uhs, yeses and noes.

21 A Okay.

22 Q Let's see. At the end we're going to have a
23 record that our court reporter is taking down, and that
24 will be your testimony for use at trial, perhaps. And
25 that will be -- you'll have an opportunity to review

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1 that and correct it.

2 If you have any corrections, you know, that's
3 fine, just be aware that any -- any corrections that you
4 make counsel can comment on at trial in front of a jury.
5 So substantive -- big, substantive changes are not a
6 great idea. Make sure that you give the best answer
7 that you can here today.

8 You don't need to guess. If your answer to
9 something is that you just don't know, that's fine. But
10 I'm going to ask you to give the best answer that you
11 can according to your recollection.

12 Of course you're under oath just as though we
13 were in a court of law, and the information that you are
14 giving us here today is going to be your testimony.

15 A Uh-huh.

16 Q If you don't understand a question, feel free
17 to ask me to rephrase it, and if you need a break, then
18 let me know.

19 A Okay.

20 Q Do you still live at 6255 Peachy Canyon Road in
21 Paso Robles?

22 A Yes.

23 Q And have you lived there your entire life?

24 A Yes.

25 Q Continuously?

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1 A Yes.

2 Q Are you attending high school?

3 A Yes.

4 Q Where are you going?

5 A Templeton Independent Studies.

6 Q Is that not Templeton High School?

7 A No, it's the independent studies. It's
8 basically like a high school, though.

9 Q And how long have you been attending there?

10 A I don't recall. Two months.

11 Q Two months. Okay. So from March of 2011?

12 A Uh-huh, I'd say. Yes.

13 Q And before that were you at Templeton High
14 School?

15 A Yes.

16 Q And did you start at Templeton High School as a
17 freshman?

18 A Yes.

19 Q And you attended at Templeton continuously
20 until you went to Templeton Independent Studies?

21 A Yes.

22 Q You're still at Templeton Independent Studies
23 now?

24 A Yes.

25 Q Do you expect to graduate --

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1 A Yes.

2 Q -- this year?

3 A Yeah.

4 Q Great.

5 Do you have a job?

6 A No.

7 Q Do you play sports?

8 A Yes.

9 Q What do you play?

10 A Football, baseball, golf, basketball

11 occasionally.

12 Q Do you play recreationally or at school?

13 A I used to play for the school. Now I play
14 recreationally, so...

15 Q Do you attend worship services?

16 A Occasionally.

17 Q Would you say that's, approximately, once a
18 month or once a year?

19 A A couple times a year.

20 Q Do you volunteer?

21 A Yes.

22 Q Where do you volunteer?

23 A At the food bank. Paso Robles Food Bank.

24 Q Approximately how often do you do that?

25 A I'm doing it now once a week, twice a week.

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1 Q Okay. So would you say you volunteer five
2 hours a week?

3 A Yeah.

4 Q Do you see friends?

5 A Yes.

6 Q Do you have any hobbies?

7 A Yeah, I like to ride quads, play video games,
8 ride bikes, and just hang out with my friends.

9 Q When you say ride bikes, do you mean
10 motorcycles or --

11 A Bicycles mainly.

12 Q Are you married?

13 A No.

14 Q Do you have any kids?

15 A No.

16 Q In 2007 through the beginning of 2008, did your
17 father have any connection to the community, like
18 associations with clubs or organizations?

19 A I don't recall.

20 Q Was he involved in any kind of activities like
21 sports or hobbies?

22 A Golf and softball. Golf every weekend. He
23 would play on Sunday. And softball when it was season,
24 when they had their tournaments.

25 Q And your dad, do you know where he worked?

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1 A Yes.

2 Q Where did he work?

3 A At the time that he passed away it was called
4 Lubrizol, and that was a chemical company.

5 Q So he worked at a plant?

6 A Yeah.

7 Q A chemical company?

8 A Uh-huh.

9 MR. ERNST: "Yes"?

10 THE WITNESS: Yes. I'm sorry. Yes.

11 BY MS. LOVE:

12 Q Do you know if at all whether the plant was
13 affected by the economy?

14 A I don't recall. I don't know.

15 Q So you don't know if there were any changes at
16 the plant relating to a slowdown in the economy?

17 A I don't know.

18 Q All right. I'll direct your attention to
19 exhibit -- to the Plaintiff's Fact Sheet in this case,
20 which I'll mark as Exhibit 1. And if you'll take a look
21 at page -- page 5, item 7.

22 You're claiming a loss of inheritance as
23 damages.

24 (Defendants' Exhibit 1 was marked for
25 identification.)

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1 MR. ERNST: I'll point out, for the record,
2 that this document was filled out by his mother in
3 conjunction with our office, and at the time it was
4 filled out he was a minor. So you may ask him
5 questions, but I don't believe he was part and parcel of
6 answering of Item 7.

7 BY MS. LOVE:

8 Q Well, I just want to find out if you have any
9 ideas about this particular claim.

10 So, as I said, you're claiming as part of your
11 lawsuit loss of inheritance as damages. And I want to
12 know if you have any idea what that might be?

13 A I do not.

14 Q Okay. Do you know or do you believe that your
15 father's death caused you to lose some inheritance that
16 might come to you?

17 A I do not know. I don't know.

18 Q Okay. I asked you this already, you have not
19 been deposed before; is that correct?

20 A No.

21 Q You've never done this before?

22 A No.

23 Q Have you ever brought a lawsuit before?

24 A No.

25 Q Have you ever been sued?

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1 A No.

2 Q Have you ever been convicted of a crime --
3 sorry. Let me rephrase.

4 As an adult, have you ever been convicted of a
5 misdemeanor?

6 A No.

7 Q As an adult, have you ever been convicted of a
8 felony?

9 A No.

10 Q And you've been of the age of majority for the
11 last two months, approximately; is that correct?

12 A Yes.

13 Q Have you ever filed a claim for Social Security
14 benefits of any type?

15 A No.

16 Q Has any Social Security claim been filed on
17 your behalf, if you know?

18 A Not that I know of.

19 Q Are you aware of ever having received any kind
20 of Social Security benefits? Like a check?

21 A No.

22 Q Have you ever filed a disability claim with an
23 employer?

24 A No.

25 Q Have you ever filed a disability claim with an

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1 insurance company?

2 A No.

3 Q Other than your lawyer, have you ever talked to
4 anyone about this lawsuit?

5 A No. Family. My mom and my brother.

6 Q That counts.

7 A Okay. Then no.

8 Q So you've talked to your mother and your
9 brother about this lawsuit?

10 A Uh-huh.

11 Q Anyone else?

12 A No.

13 Q Do you remember, approximately, when you may
14 have talked to your mother and brother about this
15 lawsuit?

16 A Frequently. It's a big part of our life. Not
17 every day, but every once in a while. I don't know
18 exact date, though.

19 Q So maybe, approximately, once a month?

20 A Yeah.

21 Q Since the filing of the lawsuit?

22 A Perfect. Yeah. That sounds about right.

23 Q Can you recall, other than discussions you've
24 had in the presence of your lawyer, what you and your
25 brother and mother have discussed with respect to this

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1 lawsuit?

2 A I don't recall.

3 Q Have you ever mentioned anything on the
4 internet about this lawsuit?

5 A No.

6 Q Anything on Facebook?

7 A No.

8 Q Anything on MySpace?

9 A No.

10 Q Did you ever see your father's Digitek tablets?

11 A No.

12 Q And does that -- is that to say you couldn't
13 tell which ones were the Digitek tablets when you saw
14 him taking his medicines?

15 A Exactly. Um, my -- yes.

16 Q Okay.

17 A Yes.

18 Q So, if you saw Digitek tablets, you wouldn't
19 know that that's what they were?

20 A Right.

21 Q And you wouldn't know what they were supposed
22 to look like?

23 A No.

24 Q Did you notice a change in your father's
25 behavior at all in the weeks before he passed away?

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1 A No. Not in his behavior, no.

2 Q Did you notice a change in his behavior in the
3 couple of days before he passed away?

4 A No.

5 MR. ERNST: I'd like to take a short break.

6 MS. LOVE: Sure.

7 (Recess.)

8 MS. LOVE: Back on the record.

9 Q Have you ever read anything from the internet
10 or print media -- by that I mean newspapers or
11 magazines -- about Digitek?

12 A No.

13 Q Have you ever created a website?

14 A No.

15 Q Have you ever created a blog?

16 A No. Facebook, is that a blog?

17 Q I was about to ask about that.

18 Do you have a Facebook account?

19 A Yeah, and MySpace.

20 Q And you have a MySpace account.

21 Do you have a Twitter account?

22 A No.

23 Q Do you have any other social networking?

24 A Or e-mail I mean, that's, you know.

25 Q Okay. All right. Well, with respect to your

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1 social networking accounts, and by that I mean MySpace
2 and Facebook --

3 A Uh-huh.

4 Q -- have you ever written any status updates or
5 postings, comments, that relate to your father's health?
6 Meaning any illness or injury?

7 A Since he's been -- since he's been gone?

8 Q Since he passed away?

9 MR. ERNST: Just listen to the question.

10 THE WITNESS: Can you rephrase that again?

11 MS. LOVE: Sure, of course.

12 Q At any point in time did you ever post any
13 status updates or comments on any internet site about
14 any illness or injury that your father might have had?

15 A No.

16 Q At any point in time did you post any comments
17 or status updates about your father's death?

18 A Yes.

19 Q Was that on your Facebook page?

20 A Yes.

21 Q Okay. And do you recall, was it a status
22 update or --

23 A It was, yes, status update.

24 Q Do you recall what you said on that?

25 A I don't recall.

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1 Q Did you ever post anything on your MySpace
2 account with respect to your father's death?

3 A Not that I recall.

4 Q Have you ever written anything on either of
5 your MySpace or Facebook accounts about how you are
6 doing in terms of coping with his death?

7 A I don't recall.

8 Q Have you ever written anything on your accounts
9 about how your family's coping with your father's death?

10 A I don't recall.

11 Q Have you ever written anything on your Facebook
12 or MySpace pages about Digitek?

13 A No.

14 Q Did you do any internet research about Digitek?

15 A No.

16 Q Other than your attorney, did you talk to
17 anyone to prepare for this deposition?

18 A No, ma'am.

19 Q You never spoke to your mom about this
20 deposition to prepare?

21 A Yes, actually. Yes, me and my mom and my
22 brother, we were there, yeah.

23 Q Outside the presence of your lawyer you spoke
24 to your mom and brother about this deposition?

25 A Yes.

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1 Q Do you recall what you said?

2 A No.

3 Q Just that it was happening?

4 A Yeah. Just -- just that it was going on.

5 Q Okay. Did you review any documents to prepare
6 for your deposition today?

7 A Not that I recall. I went over things with my
8 lawyer, that's it.

9 Q Did you go over any documents with your lawyer?

10 A Not that I recall, no.

11 Q I'm going to talk to you a little bit about
12 your father's medical history, and as it relates also to
13 his family, members of his side of the family. Okay?
14 I'll get to that.

15 Are you aware whether or not your father had
16 heart disease?

17 A Yes.

18 Q Do you know what kind of heart disease he had?

19 A Erratic heartbeat.

20 Q Do you know if any other members of his family
21 had erratic heartbeat or atrial fibrillation?

22 A Not that I know of.

23 Q I'm going to ask you a long list of conditions,
24 and I'm going to ask you whether you know if anyone on
25 your dad's side of the family had these conditions. And

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1 I'm specifically asking about any of your father's
2 grandparents, parents, siblings or kids, which would
3 just be you two, I guess.

4 Okay. Are you aware of anyone on your dad's
5 side of the family having diabetes?

6 A Not that I know of.

7 Q Are you aware of anyone on your dad's side of
8 the family having coronary arteriosclerosis?

9 A Not that I know of.

10 Q Hypothyroidism or thyroid disease?

11 A No.

12 Q Are you aware of anyone having any
13 gastrointestinal problems?

14 A No.

15 Q Are you aware of anyone having been diagnosed
16 with obesity?

17 A No.

18 Q Are you aware of anyone on your dad's side of
19 the family having kidney disease?

20 A No.

21 Q Are you aware of anyone on your dad's side of
22 the family having chronic obstructive pulmonary disease?

23 A No.

24 Q Lung problems?

25 A No.

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1 Q Are you aware of anyone having heart failure?

2 A No.

3 Q Are you aware of anyone on your dad's side of
4 the family having a pacemaker?

5 A No.

6 Q Are you aware of anyone on your dad's side of
7 the family having electrolyte disorders?

8 A No.

9 Q Are you aware of anyone on your dad's side of
10 the family having a heart attack?

11 A No.

12 Q Are you aware of anyone on your dad's side of
13 your family having reduced metabolism?

14 A No.

15 Q Are you aware of anyone on your dad's side of
16 the family having low potassium levels?

17 A No.

18 Q Are you aware of anyone on your dad's side of
19 the family having been diagnosed with anorexia?

20 A No.

21 Q Are you aware of anyone on your dad's side of
22 the family having cancer?

23 A Yes.

24 Q Who is that?

25 A His brother.

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1 Q His brother. That's your uncle Eric?

2 A Yes, Uncle Eric.

3 Q Do you know what kind of?

4 A Testicular cancer.

5 Q Are you aware of anyone on your dad's side of
6 the family having a stroke?

7 A No.

8 Q Do you know if any doctor ever told your dad
9 that he might have some health problems related to his
10 weight?

11 A I don't know.

12 Q Do you know if any doctor ever advised your
13 father to lose weight?

14 A I don't know.

15 Q Do you know if anyone in your family ever
16 expressed concerns about your dad's health problems that
17 might be related to his weight?

18 A No.

19 Q Do you know if your dad himself was concerned
20 about his weight?

21 A No.

22 Q Did your dad ever go on a diet to lose weight?

23 A Yes.

24 Q And do you know, approximately, when that was?

25 A I don't recall.

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1 Q Was it, approximately, within the last two
2 years of his life?

3 A I don't recall.

4 Q And was that the Atkins diet?

5 A Yes.

6 Q And do you know if while he is on the Atkins
7 diet he had any success with losing weight?

8 A Yes.

9 Q Do you know, approximately, how much weight he
10 lost?

11 A I don't. I don't recall.

12 Q Did your dad stay on that diet or did he stop?

13 A He stopped.

14 Q Do you know if after he stopped, your father
15 gained any weight?

16 A I don't recall.

17 Q And as part of the Atkins diet, do you remember
18 what your father changed in his habits?

19 A I don't recall.

20 Q I understand your father used chewing tobacco;
21 is that right?

22 A Yes.

23 Q Do you know, approximately, how much chewing
24 tobacco he used on an average day?

25 A I don't recall.

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1 Q Do you know, approximately, how long he used
2 chewing tobacco?

3 A I don't recall.

4 Q Do you know, approximately, when he stopped
5 using chewing tobacco?

6 A I don't recall.

7 Q Do you know whether he stopped using chewing
8 tobacco within the last three years of his life?

9 A I don't recall.

10 Q I understand at some point your father wanted
11 to stop using tobacco?

12 A Uh-huh.

13 Q Is that right?

14 A Yes.

15 Q Do you know why he wanted to stop using
16 tobacco?

17 A He didn't want me and my brother to do it.
18 Didn't want us watching him do it. So he didn't want us
19 to do it.

20 Q Did he have any concerns about his health with
21 respect to chewing tobacco?

22 A Not that I recall.

23 Q In the last year of his life, do you know
24 whether your father occasionally used chewing tobacco?

25 A I don't recall.

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1 Q Do you know in the last year of your father's
2 life whether he occasionally used fake chewing tobacco?

3 A I don't recall.

4 Q Did your dad ever talk to you about chewing
5 tobacco?

6 A Yes.

7 Q What did he say?

8 A That it was bad. Not to do it.

9 Q Anything else?

10 A Turns your teeth yellow.

11 Q Okay. Did your dad ever drink alcoholic
12 beverages?

13 A Yes.

14 Q What kind of beverage did he drink?

15 A Usually a beer every once in a while.

16 Q Do you know how many -- how many beers he might
17 have on an average workday?

18 A I don't recall.

19 MR. ERNST: Objection. Assumes he had beer
20 every workday.

21 MS. LOVE: You're right.

22 MR. ERNST: There's no foundation for that.

23 MS. LOVE: Sure.

24 Q Do you know how frequently your dad had a
25 drink?

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1 A I don't recall.

2 Q Did you ever go grocery shopping for your
3 family?

4 A Yes -- rephrase that. What do you --

5 Q Okay. Did you ever accompany your mom
6 sometimes to go grocery shopping?

7 A Yes.

8 Q Did she occasionally buy beer when she went
9 shopping?

10 A Yes.

11 Q When your mom went shopping and bought beer,
12 did she buy a six-pack or would she buy a six-pack?

13 A I don't recall. It depended on the occasion.

14 Q So maybe she would buy more beer if you were
15 having some kind of an occasion?

16 A Right.

17 Q Do you know, approximately, how often she
18 bought beer?

19 A I don't recall.

20 Q Do you think she bought beer every time she
21 went grocery shopping?

22 A No.

23 Q Do you know when your dad did drink in the last
24 month of his life, do you know whether your dad drank
25 approximately one beer a week or --

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1 A I don't recall.

2 Q -- three beers a week?

3 You don't recall, okay.

4 Do you know whether anyone ever encouraged your
5 father to reduce his alcohol consumption?

6 A I don't recall. I don't know.

7 Q But did anyone in your family ever encourage
8 him to reduce his alcohol consumption?

9 A Not that I know.

10 Q Did your dad drink coffee?

11 A Yes.

12 Q Approximately how much coffee did he drink?

13 A Two to three cups in the morning.

14 Q Would that be every morning?

15 A Yes.

16 Q Do you know if he drank any coffee at any other
17 time during the day?

18 A I don't recall.

19 MR. ERNST: Or you don't know.

20 THE WITNESS: I don't know. Yeah, I don't
21 know.

22 BY MS. LOVE:

23 Q Did your dad ever drink tea?

24 A I don't know.

25 Q Did your dad ever drink soda?

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1 A I don't -- I don't recall. Diet Pepsi once in
2 a while.

3 Q Was it a habit for your dad to drink Diet Pepsi
4 or was it more occasional?

5 A Occasional.

6 Q Did your dad ever have a habit of drinking
7 anything other than beer and coffee and soda?

8 A Water, milk.

9 Q Milk. How often would you say your dad drank
10 milk?

11 A Every night.

12 Q With dinner?

13 A Yes.

14 Q Do you remember your dad having a habit of
15 drinking water?

16 A Not a habit, but he would drink water.

17 Q Would you say --

18 MR. ERNST: Is it a habit to drink water?

19 I mean, objection, there's no foundation. I
20 don't know.

21 I'll withdraw the objection.

22 Just answer the question.

23 MS. LOVE: Do we have a question pending?

24 THE REPORTER: No.

25 BY MS. LOVE:

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1 Q Did your dad ever exercise?

2 A On the weekends when he would do his work on
3 the house and golf.

4 Q And your dad went golfing, approximately, once
5 a week?

6 A Yes.

7 Q And he did that until he died?

8 A Yes.

9 Q And what kind of work around the house did your
10 father do?

11 A Mow the lawns, edge, water. We have a ranch,
12 so whatever he felt necessary.

13 Q How often did he do that kind of work?

14 A Once or twice a week.

15 Q Okay. Did you ever see that that was
16 physically difficult for your father?

17 A No.

18 Q Do you know whether a physician ever advised
19 your father to exercise for his health?

20 A I don't know.

21 Q I understand that your father sometimes went
22 hunting; is that correct?

23 A Yes.

24 Q Did you ever go with him?

25 A Yes.

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1 Q When you went hunting with your father, how did
2 you travel?

3 A Quad or a Jeep.

4 Q So you guys didn't walk the grounds?

5 A Depends. Most of the time we were on quads or
6 in the Jeep.

7 Q When you guys went hunting together, if you had
8 to estimate approximately how much time you spent on
9 foot, could you do that?

10 A No.

11 Q Are you aware of your father's -- did your
12 father have a routine with respect to taking his
13 medicines?

14 A Yes.

15 Q Do you know what that routine was?

16 A No. In the mornings and at night, yes.

17 But --

18 Q That's a routine.

19 A Yeah.

20 Q Did you ever see him take his medicine?

21 A Yes.

22 Q Would you say that you -- did you see him take
23 his medicine in the mornings?

24 A Yes.

25 Q Did you also see him take his medicine in the

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1 evenings?

2 A Yes. Not every night, but, yes.

3 Q So when he took his medicines in the morning,
4 do you know approximately what time that was?

5 A I do not.

6 MR. ERNST: Well, specifically, you might ask
7 for an estimate.

8 MS. LOVE: Right.

9 Q Did your dad take his medicines before he left
10 for work in the morning?

11 A Yes.

12 Q Do you know approximately what time he left for
13 work in the morning?

14 A 7:25, 7:30.

15 Q I understand that your father kept his medicine
16 in the kitchen; is that correct?

17 A Yes.

18 Q And did he also take his medicine in the
19 kitchen?

20 A Yes.

21 Q Did he drink something with his medicines?

22 A Yes.

23 Q Was it water?

24 A Or coffee.

25 Q Or coffee.

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1 In the year before your father passed away, did
2 he ever complain about his health?

3 | A I don't recall.

4 Q Do you remember hearing your dad ever talking
5 about feeling tired in the year before he died?

6 | A I don't recall.

7 Q Do you remember your father ever feeling
8 nauseous in the year before he died?

9 | A I don't recall.

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10      Could we take a break real quick.
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11 (Recess.)

12 MS. LOVE: Back on the record.

13 Q I'm going to ask you some of the details about
14 March 22nd, 2008, which is the date that you all left
15 for your camping trip.

16 Do you recall whether your father did any
17 preparation for the camping trip that you were doing --
18 that you were leaving on that day?

19 | A Yes, he did.

20 Q Do you recall what he did?

21 | A I don't.

22 Q Did you assist with any of the preparation for
23 that trip?

24	A	Yes.
----	---	------

25	Q	What did you do?
----	---	------------------

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1 A Helped load up the trailer. Helped get it
2 hooked up to the truck. And just basically whatever my
3 parents needed help with.

4 Q Loading up the trailer, did that entail
5 carrying a lot of things from the house into the
6 trailer?

7 A Yes.

8 Q Do you recall what kind of things you loaded
9 into the trailer?

10 A Well, my personal clothing, food for the trip,
11 ice chests, chairs, golf clubs. Just things that you
12 would take on a trip. Cups, things like that.

13 Q Do you know, approximately, how long it took
14 you to load up the trailer and get ready to go?

15 A I don't recall.

16 Q Did you have any breakfast that morning at your
17 home before you left?

18 A I don't recall.

19 Q Do you recall whether your dad had anything to
20 drink in the morning before you guys left?

21 A I don't recall.

22 Q Did anything that you did that morning to
23 prepare for the trip require any kind of difficult
24 physical exertion?

25 A No.

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1 Q Do you recall, approximately, what time your
2 family got on the road to go camping?

3 A I don't. I don't know.

4 Q Would you -- if you had to estimate, would you
5 say it was before noon?

6 A Yes.

7 Q Do you remember if it was warm that day?

8 A I don't remember.

9 Q Now, you mentioned that you had hooked up the
10 trailer to the truck.

11 Okay. So when you left, did you ride in the
12 truck with your family?

13 A Yes.

14 Q So all four of you were there in the truck?

15 A Yes.

16 Q Did your dad have anything to eat or drink in
17 the truck while you guys were driving?

18 A I don't recall.

19 Q Did you drive straight to the campsite from
20 your home?

21 A We made a couple stops. I don't recall where.
22 We made two stops, if I remember right.

23 Q Do you remember what you did at the first stop?

24 A I don't recall if we went to breakfast or --
25 no, wait. We went to the rest stop first.

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1 Q Okay.

2 A And met up with the other -- like our family
3 and a couple of other families, and then we left and got
4 back on the road.

5 Q Can you estimate, approximately, how long you
6 guys were at that rest stop?

7 A Anywhere from 20 to 30 minutes probably.

8 Q Okay. Do you remember how long you drove with
9 your family before you stopped at the rest stop?

10 A I don't recall.

11 Q When you left the rest stop, you got on the
12 road again and you made a second stop; right?

13 A Yes.

14 Q You had breakfast at the second stop?

15 A Yes, we went to a restaurant.

16 Q Do you remember how long you guys drove between
17 the rest stop and the restaurant?

18 A I don't recall. The restaurant is in King
19 City.

20 Q Do you remember the name of the restaurant?

21 A I don't.

22 Q Do you remember what you had for breakfast
23 there?

24 A I don't. I don't recall. I don't even
25 remember what time it is, or what time it was.

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1 Q Did you see what your dad ate that morning?

2 A I don't recall.

3 Q Did you sit at the same table as your dad at
4 the restaurant?

5 A Yes.

6 Q Had you ever stopped at the restaurant there
7 before?

8 A Yes.

9 Q Did your dad have a usual breakfast that he
10 ordered when you stopped there?

11 A Not that I recall.

12 Q Do you remember whether your dad had anything
13 to drink while you guys were at the restaurant?

14 A I don't recall.

15 Q After you left the rest stop, you got back into
16 the truck and drove to the campsite; is that correct?

17 A After the restaurant?

18 Q Yes.

19 A Yes.

20 Q What did you do -- if you can describe in
21 detail what you did when you arrived at the campsite?

22 A We got there, unhooked the truck, unloaded all
23 of our chairs, our ice chests, everything that we were
24 taking outside. And then after -- because everybody
25 does that, you know, they unload their own trailer.

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1 Then after that we all set up our eating place where we
2 moved all our tables and pushed them together. Then we
3 all just relaxed and they barbecued. That's about it.

4 Q Did the barbecuing start right away after you
5 guys had finished setting up?

6 A I don't recall. A couple hours later, though,
7 from what I remember.

8 Q Do you remember what your dad did with respect
9 to any of the unloading?

10 A I don't recall.

11 Q Do you remember your dad taking any medicine in
12 the middle of the day?

13 A No. No medicine. He didn't take any, that I
14 saw.

15 Q Did you see your father pack his medicine?

16 A I did not.

17 Q Did you see his medicine at any point during
18 your trip that day?

19 A Yes. I saw him take it that night.

20 Q Do you remember, approximately, what time it
21 was that he took his medicine --

22 A I don't.

23 Q -- that evening?

24 A I don't.

25 Q Was it still light outside?

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1 A I don't recall. I was inside my trailer eating
2 dinner, so...

3 Q So you ate dinner inside the trailer?

4 A Yes, I did.

5 Q I'm sorry?

6 A With my cousin.

7 Q With your cousin. I'm sorry, who's your
8 cousin?

9 A Blake Banya.

10 Q Did your dad eat inside the trailer, too?

11 A No. He came in just to get his medicine and go
12 back out.

13 Q Was he eating when he came in to get his
14 medicine?

15 A He had no food with him. I don't know if he
16 had eaten yet or not.

17 Q So you saw your dad come in and take his
18 medicine?

19 A Right.

20 Q Did he swallow anything to help him with the
21 medicine that --

22 A You mean water?

23 Q Yes. Any kind of food.

24 A Yes, water. He filled up a coffee cup with
25 water and drank water with it.

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1 Q Was that -- I'm sorry.

2 A He got a coffee cup and filled it up with water
3 and took it with his medicine.

4 Q Was that water from the sink at the trailer?

5 A Yes.

6 Q And that was hooked up to -- at your site?

7 A Yes.

8 Q Do you know after you finished unloading the
9 trailer what your dad did to occupy himself before
10 dinner?

11 A No, ma'am. I don't recall.

12 Q Do you know who cooked dinner?

13 A My dad barbecued along with Sean Koehler who
14 also cooked. But I'm pretty sure everybody just helped
15 a little bit with everything.

16 Q Okay. Did people bring food that they had made
17 at home and set it out?

18 A I don't recall. Um, alls I know is everything
19 that we had, we had to bring with us, but it wasn't
20 prepared yet.

21 Q Do you remember seeing your dad sweating that
22 evening or that afternoon?

23 A I don't recall.

24 Q Did your dad complain at any point in the day
25 of being tired?

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1 A I don't recall that day.

2 Q Do you remember him saying that he felt
3 bloated?

4 A No, I don't recall on that day, no.

5 Q Do you remember any other times when he might
6 have made that complaint?

7 A Yes, I -- he said he had been bloated. And I
8 don't recall the dates, but he had talked about having
9 cold sweats and bloating prior to his death.

10 Q Would you say that was approximately -- you
11 would say that was within the last six months of his
12 death?

13 A If I had to make an estimate, yes.

14 Q And did he say -- when you heard him make these
15 complaints, was he having the problem at that time?

16 A Yes.

17 Q Okay.

18 A Yes.

19 Q So was that happening during the daytime?

20 A Yes, mainly in the mornings, from what I
21 remember him telling me.

22 Q So that would be maybe in the mornings before
23 he left for work?

24 A Yes. He would drop me and my brother off at
25 school and we would talk in the mornings.

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1 Q You talked in the car?

2 A Yeah. We would, you know, talk on the way to
3 school. Some days --

4 MR. ERNST: Just answer his question --

5 THE WITNESS: Yes.

6 MR. ERNST: Just answer the question.

7 THE WITNESS: Yes.

8 BY MS. LOVE:

9 Q Did your father have any -- did he ever
10 speculate about what might be causing the symptoms that
11 he was having?

12 A No.

13 Q Other than the cold sweats and the bloating,
14 did he ever make any other complaints?

15 A No, not that I recall.

16 Q Did he ever talk about feeling tired?

17 A Not that I recall.

18 Q Do you remember what you ate at the campsite on
19 March 22nd, 2008?

20 A Hamburger and french fries. That's all I
21 recall.

22 Q Do you remember before dinner whether there
23 were any snacks out?

24 A Yes.

25 Q Do you remember what they were?

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1 A I don't. I don't recall.

2 Q So the hamburgers were barbecued; right?

3 A Yes.

4 Q Was that a propane barbecue?

5 A I don't recall.

6 Q You guys had a fire at the campsite; right?

7 A I don't recall.

8 Q Do you remember seeing your dad drink anything
9 after you guys had arrived at the campsite?

10 A I don't recall.

11 Q Do you know if he drank anything?

12 A I'm sure he did, but I don't recall.

13 Q Do you know -- okay.

14 Do you know whether anybody at the campsite had
15 brought cocktails with them?

16 A I don't recall.

17 Q Do you know what your dad did after he ate
18 dinner?

19 A I don't recall.

20 Q What did you do after dinner?

21 A I don't recall.

22 Q I understand that some people were playing
23 Rock --

24 A Rock Band.

25 Q Rock Band?

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1 A Yes.

2 Q Did you play Rock Band?

3 A I watched.

4 Q Okay. Who else was playing Rock Band?

5 A Um, my uncle. I remember my brother, my dad
6 and my cousin.

7 Q Okay.

8 A And a couple other of the kids that came with
9 their family were playing.

10 Q Did they play for very long?

11 A I don't recall.

12 Q So your dad was playing Rock Band for a little
13 while; right?

14 A Yes.

15 Q Do you remember what he did when he stopped
16 playing Rock Band?

17 A I don't recall.

18 Q Do you know, approximately, what time your dad
19 went to bed?

20 A I don't recall.

21 Q Do you know whether it was before you went to
22 bed?

23 A Yes.

24 Q So when you went to bed, your dad was already
25 in bed?

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1 A Yes.

2 Q And your mom was there, too?

3 A Yes.

4 Q And you went to bed in the trailer?

5 A Yes.

6 Q The same trailer your parents were sleeping in?

7 A Yes.

8 Q And you don't remember what time that was that
9 you went to bed?

10 A I don't recall.

11 Q Did you fall asleep?

12 A Yes.

13 Q But you woke up that evening; right?

14 A Yes.

15 Q What woke you?

16 A My mom talking.

17 Q You heard your mom talking?

18 A Yes, trying to wake my dad up.

19 Q She was talking to your dad?

20 A Uh-huh.

21 Q What else did you hear?

22 A A snoring, sound like snoring, but not -- kind
23 of trying to breathe.

24 Q Can you describe what happened next?

25 A My mom was trying to wake my dad up. I got up.

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1 Tried to figure out what was going on. Ran outside --
2 or she told me to wake everybody up. My brother called
3 911. I went and woke everybody else up.

4 And I couldn't really be in the trailer. It
5 was just a little too hard for me to be in there at all.
6 So that's all I recall and remember. Going to wake
7 everybody else up.

8 And my mom was doing CPR, along with my uncle
9 and John Koehler, that I remember. And, yeah.

10 Q Did you see them doing CPR?

11 A That's -- I looked in. Then I couldn't really
12 watch, so...

13 Q Okay. When you left the trailer, you -- you
14 woke everybody up --

15 A Yes.

16 Q -- in all of the trailers?

17 A Yes.

18 Q Did you hear your brother call 911?

19 A Um, I was already out of the trailer, but he
20 had picked the phone up at that time, yes, and was
21 getting ready to call.

22 Q Do you know, approximately, when the
23 authorities arrived?

24 A I don't.

25 Q Do you know who arrived?

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1 A I don't remember.

2 Q Did you see anybody?

3 A Just paramedics.

4 Q You saw the paramedics?

5 A Uh-huh.

6 MR. ERNST: "Yes"?

7 THE WITNESS: Yes. Yes.

8 MS. LOVE: Thank you.

9 Q But you weren't in the trailer when they
10 arrived?

11 A No.

12 Q Were you in the trailer at any point after that
13 that evening?

14 A I don't recall.

15 Q Okay. Were you able to see -- after the
16 paramedics arrived, were you able to see at all what was
17 going on in the trailer?

18 A No.

19 Q How did you learn of your father's death?

20 A They walked out and pronounced him dead, the
21 paramedics.

22 Q Do you know, approximately, when that was?

23 A I don't.

24 Q Can you tell me what happened next?

25 A I don't recall.

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1 Q Okay. Where did you spend the night that
2 evening?

3 A I ended up staying in the Koehler's trailer.

4 Q Okay. Now, I understand that you returned home
5 the next day; is that correct?

6 A Yes.

7 Q Do you remember what you did that week?

8 A Vaguely.

9 Q Can you describe what was going on that week?

10 A A lot of people were coming in and out. Always
11 had some friends and family there. Everybody was trying
12 to be supportive. But that's -- I don't recall anything
13 else, I mean.

14 Q Were people -- were people who you were seeing
15 asking about what had happened?

16 A Yes.

17 Q Did you have an answer for them with respect to
18 what had caused your father's death?

19 A No. I had no idea yet.

20 Q Do you remember approximately when you found
21 out your father's cause of death?

22 A I don't recall.

23 Q Do you know what your father's cause of death
24 is?

25 A Cardiac arrest.

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1 Q How do you know that?

2 A That's what I was told by my mom.

3 Q Are you aware that there was an autopsy?

4 A Yes.

5 Q Did you see the autopsy report?

6 A No.

7 Q Do you remember when you went back to school?

8 A I don't. I don't recall.

9 Q Did you -- were you confused by your father's
10 death?

11 A Yes.

12 Q Did you discuss the possible causes of his
13 death with anyone in your family?

14 A Not that I recall.

15 Q Did you learn about a Digitek recall at some
16 point?

17 A Yes.

18 Q Do you remember when you learned about that
19 recall?

20 A I don't recall.

21 Q Did you ever see a letter about the recall?

22 A I did not.

23 Q Have you ever talked to anyone at Actavis?

24 A No.

25 Q Have you ever talked to anyone at Mylan?

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1 A No.

2 Q Do you know what Actavis and Mylan are?

3 A No.

4 Q When you heard about the Digitek recall, what
5 was your reaction?

6 A Confused. Didn't -- I still didn't really know
7 what was going on. I mean, I was 15. I just turned 16,
8 actually. Yeah, I was 15.

9 Q Other than with your attorney, did you ever
10 discuss the Digitek recall with anyone?

11 A Just my mom and my brother.

12 Q Do you remember what you said?

13 A No, I don't recall.

14 Q Did your mom and your brother ever tell you
15 that they thought Digitek had something to do with your
16 father's death?

17 A Can you say that again, or rephrase it.

18 Q Sure, of course.

19 Did your mom or your brother ever tell you that
20 they thought Digitek was involved in your father's
21 death?

22 A I don't recall.

23 Q Other than with your attorney, did you ever
24 discuss bringing a lawsuit with respect to the Digitek
25 recall at your father's death?

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1 A No.

2 Q Do you remember ever hearing anyone discuss
3 bringing a lawsuit other than with your attorney?

4 A No.

5 Q Do you know of any instances where your father
6 may have forgotten to take his Digitek or his medicines?

7 A No.

8 Q Do you know of any instances where your father
9 may have taken more medicine than he meant to?

10 A No.

11 Q Do you know if your father was taking any
12 nonprescription vitamins or herbal supplements when
13 he -- in the year before he died?

14 A I don't recall.

15 Q Do you believe that your father got more
16 Digitek than he was supposed to have gotten in his
17 normal dose?

18 MR. ERNST: Objection. No foundation, calls
19 for expert opinion. There's no way that as a layperson
20 he can answer that question.

21 With those objections, if you want to answer
22 the question, you can.

23 THE WITNESS: I don't know.

24 BY MS. LOVE:

25 Q I'm going to have to ask you some questions

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1 related to your claim for mental and emotional
2 damages --

3 A Okay.

4 Q -- which is in the PFS if you want to take a
5 look at it. I think it's on -- it's item number four.

6 Are you ready?

7 A Yeah.

8 Q Okay. Again, I'm sorry I have to ask you these
9 questions. I've just got to explore this claim.

10 A Absolutely. I understand.

11 Q Can you tell me how you coped with your
12 father's death?

13 A In the beginning, I tried to stay strong for my
14 mom and my brother. And, you know, I mean, I was upset.
15 He was like my best friend. But it didn't hit me until
16 later on, like down the road, like a year and a half
17 down the road. It didn't really hit me.

18 Q Okay. Did you ever have any difficulty
19 sleeping?

20 A Yes.

21 Q Do you know, approximately, when that started?

22 A Right after it happened. Right after he passed
23 away, I started having trouble sleeping.

24 Q Were you unable to fall asleep?

25 A Yeah, I'd just lie awake. My brain kept going.

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1 Q Did you ever see a doctor about that condition?

2 A Yes.

3 Q Have you ever been prescribed any medicine to
4 help you with that?

5 A Yes.

6 Q Has that treatment been successful?

7 A It helped and now I'm getting back into a
8 normal routine.

9 Q Good.

10 Did you have any immediate difficulties at
11 school after your father passed away?

12 A No.

13 Q Have you had any difficulties since then?

14 A Yes.

15 Q Is that related to your grades?

16 A No. Just my attitude, I guess. How I feel.
17 I've just been depressed lately about things.

18 Q Have you seen a grief counselor?

19 A Yes.

20 Q Is that the same grief counselor that your
21 brother saw?

22 A Yes. We did family counseling together, and
23 then I'm also seeing a counselor.

24 Q Is that the same grief counselor?

25 A No, this is a different counselor.

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1 Q A different counselor.

2 A Yes.

3 Q When did you start seeing this counselor?

4 A I don't recall. It's been a while, though.

5 Q Would you say it's been more than a year?

6 A Yes. No. No. No.

7 Q It's been less than a year?

8 A Yes.

9 Q Maybe six months?

10 A Yes.

11 Q Is that helping you?

12 A Yes.

13 Q Good.

14 Is that counseling related strictly to your
15 grief and loss?

16 A No.

17 MR. ERNST: Calls for an expert opinion, but
18 it's okay.

19 BY MS. LOVE:

20 Q Well, would you say that anything you're
21 discussing with your grief counselor is unrelated to
22 your father's death and this lawsuit?

23 A Yes.

24 Q After your father passed away, did your --
25 after your father passed away and you went back to

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1 school, did your activities change at all from your
2 habit?

3 A No.

4 Q You still played sports?

5 A Yes.

6 Q You still rode around on quads?

7 A Yes.

8 Q Still saw friends?

9 A Yes.

10 Q Would you say that any of your relationships
11 changed after your father passed away?

12 A No.

13 Q Have you ever been --

14 A Well, actually, sorry. What do you mean by
15 that? Like family relationships, or just relationships
16 in general?

17 Q Well, I'm not talking about whether you have a
18 girlfriend.

19 A Right, right.

20 Q I mean, mainly, your relationship with your mom
21 and your brother, have those become more strained or
22 difficult since your father passed away?

23 A No. Sorry. Um, they are better, stronger.

24 Q Okay. Have you ever been diagnosed with any
25 emotional conditions that required therapy or

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1 medication?

2 A I'm on antidepressants, yes.

3 Q So you've been diagnosed with depression?

4 A Yes.

5 Q How are you doing with that treatment?

6 A Good now. Doing good.

7 Q Better?

8 A Yes.

9 Q That's good.

10 Do you still feel grief?

11 A Yes.

12 Q How frequently?

13 A Every day.

14 Q Every day.

15 And how is your brother doing, would you say?

16 A A lot better than he was. A lot better.

17 Q How about your mom?

18 A A lot better than she was.

19 Q Okay. Good. I'm glad to hear that.

20 Do you have any plans for the future?

21 A Well, I either want to become a chef or an
22 architect. Working on both of those a little bit,
23 trying to figure out what I want to do. So we'll see.

24 Q So do you have plans to go to school after you
25 finish high school?

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1 A I'm actually planning on going down to Santa
2 Barbara soon to find a job and then go to school down
3 there.

4 Q Okay. Terrific.
5 So you've got an application?

6 A We're going -- I'm going to go down there and
7 just put in applications everywhere I can until we find
8 something.

9 Q Great. That's wonderful.

10 A Yeah.

11 MS. LOVE: Well, I think that's all I've got.

12

13 EXAMINATION

14

15 BY MS. LIM:

16 Q I just have a couple of quick questions. I
17 introduced myself earlier.

18 A Right.

19 Q My name is Tiffany Lim. I'm not going to go
20 over anything that Ms. Love has already gone over.

21 But I remember you said earlier you didn't
22 recall your dad ever forgetting to take his medication;
23 is that right?

24 A Right.

25 Q Do you know if your dad ever used any reminders

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1 to help him take his medicine?

2 A No.

3 Q Like did he have an alarm on his cell phone
4 maybe that went off in the morning and at night?

5 A No.

6 Q And a couple of questions about March 22nd,
7 2008. I know that you had said that you guys were
8 eating hamburgers?

9 A Uh-huh.

10 Q Who was the one that was doing the barbecuing?
11 Was it your dad?

12 A Yeah, my dad.

13 Q Do you remember what time the barbecuing
14 started?

15 A I don't recall.

16 Q You said it was a couple of hours after the
17 camp -- you guys had finished setting up the campsite?

18 A If I made an estimate, it would be between
19 6 and 8 p.m.

20 Q Was it still light out when you guys began
21 barbecuing?

22 A If I recall, yes.

23 Q How about when your dad finished barbecuing?
24 Do you remember whether it was still light out?

25 A I don't recall.

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1 Q You don't recall, okay.

2 And I know you said you didn't remember what
3 time you went to bed, but when you went to the trailer,
4 was your brother already in there?

5 A No, we went in together.

6 Q You went in together?

7 A Yes.

8 Q Okay.

9 MS. LIM: I think that's all of the questions I
10 have.

11 THE WITNESS: Great.

12 MS. LIM: Thanks very much.

13

14 EXAMINATION

15

16 BY MR. ERNST:

17 Q The 6 to 8 p.m. is when you thought you were
18 eating dinner?

19 A That's when I thought they had started
20 barbecuing.

21 Q Is that about the time you were eating dinner,
22 6 to 8 p.m.?

23 A Yes.

24 Q Sometime in there?

25 A Yes.

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1 Q That's the time you saw your dad take the pills
2 or tablets?

3 A In between those times, yes.

4 MS. LOVE: That's all I have.

5 MR. ERNST: Same stip?

6 MS. LOVE: Yes. We'll stipulate that --

7 MR. ERNST: Same stip we did before.

8 MS. LOVE: Same stip as before. Agreed.

9 (Deposition concluded at 3:10 p.m.)

10 * * * * *

11 (The following is the stipulation from Daniel
12 McCornack, Junior's deposition taken May 17, 2011:)

13 MR. ERNST: What I would do is propose that the
14 court reporter can type up the transcript. Send it to
15 Mr. McCornack at his residence address. He can sign it
16 under penalty of perjury. If he makes any changes or
17 corrections, I'll notify you within 30 days of his
18 receipt. If for any reason the original is lost or
19 unsigned, a copy can be used at the time of the trial.
20 I'll produce the original at the time of trial.

21 MS. LOVE: I'll stipulate.

22 MS. LIM: So stipulated.

23 (End of previous stipulation.)
24
25

Ralph J. McCornack

May 17, 2011

1 REPORTER'S CERTIFICATE

2
3 I, Cindy D. Griffith, a Certified Shorthand
4 Reporter in and for the State of California, do hereby
5 certify:

6 That, prior to being examined, the witness
7 named in the foregoing proceeding was by me sworn to
8 tell the truth, the whole truth and nothing but the
9 truth.

10 That said deposition was taken before me at the
11 time and place therein set forth and was taken down by
12 me in shorthand and thereafter reduced to computerized
13 transcription. I hereby certify that the foregoing
14 deposition is a full, true and correct transcript of my
15 shorthand notes so taken.

16 Dated at San Luis Obispo, California, this 23rd
17 day of May, 2011.

18
19
20

21 _____
22 CINDY D. GRIFFITH
23 CERTIFIED SHORTHAND REPORTER
24
25